

Attachment to PTO/SB/61/PCT

Re: PCT/US2004/022415
Methods for Detecting and Analyzing N-Glycolynineuramic Acid (NEU5GC) in
Biological Materials.

This letter is submitted to provide a detailed explanation as to why the 35 U.S.C. 371(c) elements were not timely filed.

The subject case was transferred from my previous law firm of Burns, Doane, Swecker & Mathis LLP on or around October of 2005, indicating a filing date of 14 July, 2004. Thereafter, PCT Revocations and Powers of Attorneys were obtained by the client and filed with the United States Receiving Office on November 17, 2005, granting Power of Attorney to my new firm, Gordon & Rees LLP. We were notified of the acceptance of the Powers of Attorney on December 30, 2005.

When the physical file arrived in October of 2005, it was initially inspected and a temporary record was created which included upcoming due dates. The initial 30 month National Phase Entry Deadline may have been initially entered into the docket system as 14 January 2007, although our electronic docketing system does not allow us to determine this, since the date was thereafter changed. The error was corrected when the file was thoroughly inspected in November when the Powers of Attorney were prepared.

As per our usual business practice, dockets are distributed monthly which span a two-month period, and upcoming deadlines are duly noted. Attached hereto as Exhibit A is our monthly docket dated December 1, 2005 through January 31, 2006. The relevant information appears on the bottom of page 2. The docketing program is set up to keep the entire record for every matter together on the same page. As you can see by the information appearing at the bottom of the left side of the page (i.e., smeared print), it appears that a printing error caused the information that would normally appear on the right side of the page (i.e. the deadline dates and event notes) not to be printed. This was mistakenly interpreted as an indication that nothing was due in this case from December 1, 2005 through January 31, 2006.

Believing that nothing was due between December 1, 2005 and January 31, 2006 for the subject case, nothing was entered in either our hard copy docket calendar (Exhibit B) which is maintained by my secretary, Jose Lopez, or in my outlook calendar (Exhibit C), which is also maintained by Jose Lopez and reviewed by me on a daily basis. These procedures are all part of our triple redundant docket system – a computer based docketing program (ProLaw) for generating monthly dockets, a hard copy calendar for daily review by the secretary, and a calendaring program for daily review by the attorneys/agents.

The next monthly docket for the period between January 4, 2006 and February 28, 2006 had not been reviewed as of January 20th because of vacations and holidays during this

period of time, and because the prior docket ran through January 31st. We had planned to review it on Monday, January 23rd and to enter any upcoming dates through February 28, 2006.

Upon arriving in the office on Monday, January 23rd, I noticed an email from the client in my "inbox" dated late in the afternoon on Friday, January 20th (Exhibit E) after I had already left the office for the day, indicating that we may have missed the 30 month national filing date in the subject application.

As a result, this Petition and accompanying transmittal under 35 USC 371 are now being filed herewith.